

# Labor News & Views

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## GRIEVANCE

### IS ANYTHING NOT GRIEVABLE?

The answer to that question lies in the definition of a grievance. Probably the best definition can be found in the Labor Management Relations Statute:

*"GRIEVANCE means ANY COMPLAINT --*

*(A) by any employee concerning any matter relating to the employment of the employee;*

*(B) by any labor organization concerning any matter relating to the employment of any employee; or*

*(C) by any employee, labor organization, or agency concerning --*

*(i) the effect or interpretation or a claim of breach, of a collective bargaining agreement; or*

*(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.*

Well, that speaks for itself and I can tell that you don't need me to ramble on. Right? Well, as you

(Continued on page 3)

## 4 Training Opportunities



Janet, a union steward, is a member of your work crew. She has requested official time to perform a number of functions relating to her role as a union steward. For which of the following functions would you approve her request:

- A) To prepare ballots for the election of officers at the next union meeting.
- B) To serve as a member of the union team negotiating a collective bargaining agreement.
- C) To assist a bargaining unit member in a grievance.
- D) To participate as the union member on a PAT team studying work processes in your organization.
- E) To represent a union member in a grievance at another Navy activity.
- F) To remain at an arbitration hearing the previous day which didn't end until an hour after quitting time -- she wants one hour overtime

(see "Official Time" on page 2)

THIS NEWSLETTER IS INTENDED TO PROVIDE GENERAL INFORMATION ABOUT THE MATTERS DISCUSSED. THEY ARE NOT LEGAL ADVICE OR LEGAL OPINIONS ON ANY SPECIFIC MATTERS.

## INSIDE THIS ISSUE

- 1 Grievance - Is Anything NOT Grievable?
- 1 Quiz
- 2 Performance Appraisals - Looking for the Right Words?
- 2 Official Time
- 4 Where Do I Sit?

FOR FURTHER INFORMATION REFER TO  
YOUR HUMAN RESOURCES ADVISOR.

## PERFORMANCE APPRAISALS -

### LOOKING FOR THE RIGHT WORDS?

A little humor rarely hurts anyone and we all know that performance appraisals can be a bear. So why not add a little humor to the process. The following are actual excerpts from federal employees performance evaluations. We recommend you NOT use any of them:

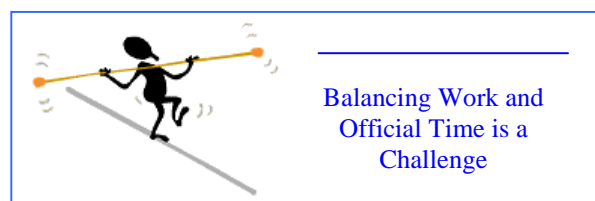
- "I would not allow this employee to breed."
- "This employee is really not so much of a has-been, but more of a definite won't be."
- "Works well when under constant supervision and cornered like a rat in a trap."
- "When the employee opens its mouth, it seems that it is only to change feet."
- "He sets low personal standards and then consistently fails to achieve them."
- "This employee is depriving a village somewhere of an idiot."
- "This employee should go far, and the sooner he starts, the better."
- "He doesn't have ulcers, but he's a carrier."
- "I would like to go hunting with him sometime."
- "He would argue with a signpost."
- "He brings a lot of joy whenever he leaves the room."
- "If you see two people talking and one looks bored, he's the other one."
- "Gates are down, the lights are flashing, but the train isn't coming."
- "One neuron short of a synapse."
- "Some drink from the fountain of knowledge; he only gargled."
- "The wheel is turning, but the hamster is dead."

## OFFICIAL TIME

In dealing with the issue of official time for union representatives, Congress enacted three provisions into the Labor Management Relations Statute.

The first is that union representatives will be granted official time for negotiating collective bargaining agreements with agencies. The number of such representatives on official time may not exceed the number of agency representatives at the bargaining table. Thus if Janet is designated by the union as a member of the union bargaining team (situation B), official time is authorized.

The second provision is that official time will not be granted for internal union business, including solicitation of membership, elections, and collection of dues. Thus official time is not authorized in situation A.



The third provision is that for other representation purposes, official time shall be granted in whatever amount the parties agree is, "reasonable, necessary, and in the public interest." Thus official time for these purposes is negotiable, and the answers to situation C and D is that it depends on what agreements have been made in your collective bargaining agreement.

Different activities have negotiated different approaches to this difficult issue with their labor unions. Some have agreed to one or more full-time representatives. Some have agreed to a certain number of hours per day or week that the union could spend doing representational duties.

The most common agreements simply deal with the concept of "reasonable time" in which the steward justifies the need for the official time on a case by case basis. The concept works, but requires some communication, trust, and cooperation between the supervisor and the steward to work well. The supervisor must balance the steward's need for official time for representational work, against the supervisor's need for the steward's services in performing his or her regular duties, when determining when and

how much official time will be granted in each case.

In situation E, official time would not be appropriate inasmuch as the employee is not in the bargaining unit. The employee is from a different activity and official time is not appropriate.

Finally, in situation F, you cannot approve her overtime request. Representation is for the union and is not for the primary benefit of the government as an employer. When a steward performs representational business outside of their normal workday, it is not considered the "performance of hours of work" within the meaning of the law. The exception to this would be if the representative was already on overtime duty status and it was necessary to them to use official time. This exception would apply if, for example, during the overtime, the steward was needed to attend a Weingarten<sup>1</sup> meeting).

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**Got Ideas?** You can contact us at  
nwlabor\_nw@nw.hroc.navy.mil.  
We would enjoy hearing your  
ideas for our newsletter.



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## GRIEVANCE

(CONT FROM PAGE 1)

can see, that's a pretty broad definition. Virtually any matter relating to the employment of an employee is grievable.

"Boss, it's too cold in here."

"Boss, you yelled at me."

"Boss, I don't want to do that."

The above are all examples of grievances. Informally, we discuss and resolve grievances of our employees daily. And we don't seem to give such matters a second thought. But when we are unable to resolve such matters informally, when

the grievance is reduced to writing and processed through the various steps of the grievance procedure, suddenly we change. We have a tendency to get tense, get knots in our bellies, and suddenly get very adversarial. This is particularly true, if the complaint is about something we have personally done (i.e., "Boss, I don't like the rating YOU gave me.").

Why does this occur? There are several things contributing to it. It's human nature to not like to be "accused" of wrongdoing. We especially don't like to see such accusations in writing (someone else like our boss might see it!). Sometimes our personality just clashes with that of the complaining employee or his/her representative in the matter.

Unfortunately, when we let these nonrelevant factors enter into the grievance process, they have a tendency to overly influence the outcome. Our concentration tends to focus on these nonrelevant factors, instead of the primary issue, the employee's concerns.

Remember the theory is "happy employees are productive employees." Since your goal is (or should be) to have productive employees, your goal is thus to have happy employees. This doesn't mean that you're Santa Claus, fulfilling every employee's whim. Rather, it's to your benefit to resolve reasonable complaints as reasonably and rapidly as possible.

So, how do you approach the grievance meeting to best accomplish your goal? Here are a few tips:

**DO** call your HRO advisor as soon as you get a grievance. Your advisor will assist you through the process

**DON'T** put off the meeting until the last possible moment. To do so gives the impression that you either don't care about the employee's concern, or you're afraid of the confrontation.

**DO** think of the meeting as a problem solving opportunity instead of "a nasty job but someone's gotta do it."

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<sup>1</sup> Don't know what a Weingarten meeting is? Go see Labor News & Views, Vol I Issue I (March - April 2000), Page 2

**DON'T** pass the buck. If you don't have the authority to resolve the matter, go deal with the management level having that authority in order to provide the employee an answer other than "I don't have the authority to grant what you want."

**DO** be aware of the nonrelevant factors and make a conscience effort to minimize their influence.

**DON'T** allow yourself to be dragged into debating the issues at the meeting.

**DO** remember that the primary purpose of the meeting is to allow you to understand fully the employee's real concern. Take advantage of that opportunity. LISTEN and ask questions.

**DON'T** render a decision at the meeting. Every grievance procedure provides you some period of time after the meeting to consider the matter and conduct further investigation, if necessary, prior to rendering a decision.

**DO** explore alternative resolutions to determine which might be acceptable to the employee

**DON'T** pack the room full of people. Normally, it should be you, your HRO representative, the grievant and one union representative on official time.

And, finally, if you can't or won't grant the remedy sought, **DO** provide your reasons for not doing so. If the employee understands *why* you said no, it may resolve the matter.



**Looking for your HRO?  
Find them online at**

[www.bangor.navy.mil/subase/hro/general/index.html](http://www.bangor.navy.mil/subase/hro/general/index.html)

## WHERE DO I SIT?

As we talked about in previous issues, when management implements a change to bargaining unit employees' working conditions there is a requirement to notify and, possibly, to negotiate. In these cases you should always bargain in good faith and with the desire to come to mutual

agreement. When you don't you may find yourself before a third party who will determine the outcome for you.

Such was the case for the Department of Treasury. They decided to move about 36 bargaining unit employees from two floors to a separate floor. The impasse arose when Treasury and the Union couldn't agree on how the office seating arrangement.

Basically the Union wanted the seating to be based upon seniority according to the employees' service computation date (SCD). Treasury wanted the seating to be arranged by work function and then by grade level and SCD within grade level.

What would you do? The Impasses' Panel, in their ultimate wisdom, decided that Treasury would determine the functional grouping of the employees, then all work stations would be allocated on the basis of highest grade level and SCD within each grade level. With each work station vacancy, the first vacancy would be allocated using SCD, the next vacancy by highest grade level and SCD within grade, alternating for each subsequent vacancy.

Sound confusing? Not only that but the Impasses' Panel put a final requirement on the Treasury that they notify the Union when a vacancy arises and specify which allocation procedure would be used to fill the workstation.

TRAINING OPPORTUNITIES		
Date	Class	Location
16 Jan	Federal Appropriations Law	Keyport
01 Feb	Manager's Role in EEO	HRSC
05 Feb	Intro to Project Mgmt	HRSC
08 Feb	Facilitating Groups	HRSC
12 Feb	Teambuilding in a reorganized workplace	HRSC
14 Feb	Preventing job burnout	HRSC
15 Feb	Mentoring skills	HRSC
21 Feb	Civilians supervising military	HRSC
28 Feb	Developing managerial skills	HRSC

If interested, contact Code 30 at HRSC at 315-8143  
A complete list of training offered by HRSC can be found at  
[www.donhr.navy.mil/Training/index.htm](http://www.donhr.navy.mil/Training/index.htm)